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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 30, 2004.

Signed: _____

Michelle R. Crosby

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No. : 10/014,953 Confirmation No.: 4009
Applicant : Lubert STRYER
Filed : December 11, 2001
TC/A.U. : 1631
Examiner : Ardin H. MARSCHEL

Docket No. : AFFYP002C1
Customer No. : 26541
Title : COMPUTER-AIDED NUCLEIC ACID SEQUENCING

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO SPECIES ELECTION REQUIREMENT

Sir:

In response to the Species Election Requirement mailed September 30, 2004, Applicant elects to pursue 1, 2, 5-9 and 27-29 as these claims did not issue in the parent case.

Applicant genuinely does not understand the Requirement. Claim 1 appears to fit the definition of "species" A as it includes the feature that is alleged to define the species. However, on page on page 5 of the Requirement, it is acknowledged by the Examiner that claim 1 is generic. A genus can include multiple species, but a species cannot include the genus.

Additionally, species C is alleged to include a certain feature, which appears to be in claim 3. However, species D is alleged to include claims that do NOT have the feature in species C. How would a genus include both species C and D? How are the claims that are said to be generic on page 5 of the Requirement truly generic if species C and D are correct?

At any rate, Applicant reviewed the parent case and discovered that claims that appeared to corresponded to species C (e.g., claim 3) and E (e.g., claim 4) have already been allowed and issued. Thus, Applicant elects to pursue the claims that were not allowed in the parent case, namely claims 1, 2, 5-9 and 27-29. Claims 3, 4 and 10-26 can be withdrawn and Applicant will cancel them in a response to the first Office Action.

If the Examiner feels a telephone interview would assist in prosecution, please do not hesitate to call the undersigned at (408) 446-8693.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Ritter", written in a cursive style.

Michael J. Ritter
Reg. No. 36,653

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